

Assembly Bill No. 99

Passed the Assembly March 16, 2011

Chief Clerk of the Assembly

Passed the Senate March 16, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Sections 130156, 130157, and 130158 to the Health and Safety Code, relating to health and human services, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 99, Committee on Budget. California Children and Families Act of 1998: use of funds.

The California Children and Families Act of 1998, an initiative measure, requires that the California Children and Families Program, established by the act, be funded by certain taxes imposed on the sale and distribution of cigarettes and tobacco products that are deposited into the continuously appropriated California Children and Families Trust Fund. Existing law requires the fund to be used for the implementation of comprehensive early childhood development and smoking prevention programs. Under existing law, prescribed percentages of moneys allocated and appropriated from the trust fund are required to be deposited into various accounts for expenditure by the California Children and Families Commission, also known as First 5 California, and to local children and families trust funds, to be expended for various subjects relating to and furthering the goals and purposes of the act.

Existing law prohibits moneys in the California Children and Families Trust Fund from being used to supplant state or local General Fund money for any purpose. Existing law prohibits amendment of this initiative measure by the Legislature unless the amendment is approved by the voters, or the amendment is accomplished by a vote of $\frac{2}{3}$ of the membership of both houses of the Legislature and the amendment furthers the act and is consistent with its purposes.

This bill would establish the Children and Families Health and Human Services Fund. The bill would require specified amounts of state and local children and families commission funds to be deposited in the fund for the 2011–12 fiscal year, as specified. Upon appropriation by the Legislature, moneys deposited in the Children and Families Health and Human Services Fund would

be used to provide health and human services, including direct health care services, to children from birth through 5 years of age.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 20, 2011.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

This bill would declare that it furthers, and is consistent with the purposes of, the California Children and Families Act of 1998.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. (a) California is presently experiencing a severe fiscal crisis, which has resulted in funding shortfalls for many services at the state and local levels. Health and human services programs that serve children are among the most seriously affected by this lack of funding.

(b) The voters approved Proposition 10, the California Children and Families Act of 1998, as a means of increasing funding to provide comprehensive, integrated services for children from birth through five years of age.

(c) Proposition 10 established a funding structure pursuant to which the majority of the tax revenues collected pursuant to the act are directed to county children and families commissions, which are required to expend these revenues in accordance with a strategic plan developed at the local level.

(d) As other funding sources have become increasingly unavailable, counties throughout the state have been forced to eliminate essential health and human services to children that have historically been paid for with state funds. However, although many county children and families commissions maintain substantial balances in their local children and families trust funds, they are unable to use Proposition 10 funds to make up the shortfall in funding for these programs because of the act's prohibition against supplanting existing levels of service. Consequently, these

services, if provided at all, are provided to a fraction of the children who need them. This prohibition is therefore resulting in service levels and outcomes that are contrary to the intent of Proposition 10.

(e) Absent this solution, substantial reductions would be needed in state programs that currently provide for the health and well-being of vulnerable children and their families.

(f) Dedicating this funding for health services for children through the age of five furthers the purposes of the California Children and Families Act of 1998 by ensuring the promotion of early childhood development through the provision of core health services.

(g) Legislation to authorize the transfer of a specified amount of funding from state and local children and families trust funds in times of fiscal emergency, to fund essential health and human services for children from birth through five years of age, when no other funding is available for these purposes, would not result in supplanting existing levels of service in circumstances where these services are no longer being funded at all. Rather, requiring Proposition 10 funds to be used in this manner would help counties to achieve the act's overall objective of promoting, supporting, and optimizing early childhood development.

(h) This act furthers, and is consistent with the purposes of, the California Children and Families Act of 1998.

SEC. 2. Section 130156 is added to the Health and Safety Code, to read:

130156. The Children and Families Health and Human Services Fund is hereby established in the State Treasury. The Children and Families Health and Human Services Fund shall be used, upon appropriation by the Legislature, to provide health and human services, including, but not limited to, direct health care services, to children from birth through five years of age.

SEC. 3. Section 130157 is added to the Health and Safety Code, to read:

130157. Notwithstanding paragraph (1) of subdivision (d) of Section 130105, for the 2011–12 fiscal year, fifty million dollars (\$50,000,000) from the accounts described in subparagraphs (A) to (F), inclusive, of paragraph (1) of subdivision (d) of Section 130105, including reserve funds, upon approval of the state commission, shall be transferred to and deposited in the Children

and Families Health and Human Services Fund to support state health and human services programs for children from birth through five years of age. The state commission shall ensure that these funds are available for the purposes described in this section. To the extent it is necessary or appropriate for the state commission to disencumber existing obligations to meet the requirements of this section, the state commission, including, but not limited to, its representatives, officers, directors, and employees, including its attorneys and other persons, is hereby released from any and all liability, rights, claims, demands, and actions, known and unknown, which any party may have, arising in connection with the disencumbering of funds or obligations in accordance with this section. For purposes of this section, “state health and human services programs” includes, but is not limited to, direct health care services.

SEC. 4. Section 130158 is added to the Health and Safety Code, to read:

130158. (a) Notwithstanding paragraph (2) of subdivision (d) of Section 130105, for the 2011–12 fiscal year, nine hundred fifty million dollars (\$950,000,000) from the combined balances of all the county Children and Families Trust Funds, including reserve funds, as provided for in subparagraphs (A) and (B) of paragraph (2) of subdivision (d) of Section 130105, shall be transferred to and deposited in the Children and Families Health and Human Services Fund, to support state health and human services programs for children from birth through five years of age.

(b) For purposes of this section, “state health and human services programs” includes, but is not limited to, direct health care services and “county commission” includes, but is not limited to, county commissions, account holders for local children and families trust funds, and county government fiscal agents.

(c) The share of the amount specified in subdivision (a) required of each county commission shall be determined in the following manner and subject to the following conditions:

(1) A county commission that received less than six hundred thousand dollars (\$600,000) in California Children and Families Trust Fund revenues in the 2009–10 fiscal year is exempt from this section and is not required to deposit funds in the Children and Families Health and Human Services Fund as part of the budget solution described in subdivision (a).

(2) By June 30, 2012, each county commission not exempted by paragraph (1) shall remit for deposit into the Children and Families Health and Human Services Fund, 50 percent of its county commission funding, which includes total reserved, total unreserved-designated, and total unreserved-undesignated local children and families trust funds as of June 30, 2010. No funds other than revenues received pursuant to the California Children and Families Act of 1998 shall be remitted for deposit into the Children and Families Health and Human Services Fund.

(3) Notwithstanding paragraph (2), county commission payments for deposit into the Children and Families Health and Human Services Fund shall not cause any county commission's fund balance to fall below the amount received by the county commission from the California Children and Families Trust Fund in the 2009–10 fiscal year.

(4) Full payments to the Children and Families Health and Human Services Fund shall be made by county commissions within the 2011–12 fiscal year. Notwithstanding any other provision of law, no 2012–13 allocation to a county commission shall occur prior to the full payment being made.

(5) Notwithstanding paragraphs (1) to (4), inclusive, the total combined remittances from county commissions in the 2011–12 fiscal year shall equal nine hundred fifty million dollars (\$950,000,000). To the extent paragraphs (1) to (4), inclusive, result in more than nine hundred fifty million dollars (\$950,000,000) being provided by county commissions in total, the difference shall be proportionally returned to all contributing county commissions.

(d) Pursuant to subdivision (c), each county commission, as defined in subdivision (b), shall ensure that the funds for transfer and deposit to the Children and Families Health and Human Services Fund are not encumbered and are available for the purposes described in this section. To the extent that it is necessary or appropriate for a county commission to disencumber existing obligations to meet the requirements of this section, the county commission, including, but not limited to, its representatives, officers, directors, and employees, including its attorneys and other persons, is hereby released from any and all liability, rights, claims, demands, and actions, known and unknown, which any party may

have, arising in connection with the disencumbering of funds, or obligations in accordance with this section.

(e) After a county commission's share of the nine hundred fifty million dollars (\$950,000,000) specified in subdivision (a) has been determined pursuant to subdivision (c), that county commission, or appropriate agent or entity, shall remit those funds to the Controller for deposit into the Children and Families Health and Human Services Fund. The entire share of funds for each county commission shall be remitted within the 2011–12 fiscal year, and may be done, in equal amounts, on a monthly basis.

SEC. 5. This act addresses the fiscal emergency declared by the Governor by proclamation on January 20, 2011, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for health services for children through five years of age to be preserved in the 2011–12 fiscal year, it is necessary for this act to take effect immediately.

Approved _____, 2011

Governor